

**REMARKS**

In the Office Action mailed June 4, 2007, the Examiner objected to the abstract of the disclosure, the use of trademarks throughout, and rejected Claims 1 through 9.

Applicant has thoroughly reviewed the outstanding Office Action including the Examiner's remarks and the reference cited therein. The following remarks are believed to be fully responsive to the Office Action and, when coupled with the amendments made herein, are believed to render all claims at issue patentably distinguishable over the cited references.

Claim 3 is amended herein. No claim is cancelled. No claim is added. Accordingly, Claims 1 through 9 remain pending.

All the changes are made for clarification and are based on the application and drawings as originally filed. It is respectfully submitted that no new matter is added.

Applicant respectfully requests reconsideration in light of the above amendments and the following remarks.

**SPECIFICATION OBJECTION**

The Examiner objected to the abstract because it was not filed on a separate sheet. Applicant has included the abstract herein and requested that it be placed after the last page of the application. Applicant respectfully submits that this objection is now overcome.

**CLAIM REJECTIONS 35 USC SECTION 112**

The Examiner rejected Claim 3 for use of the trademark VELCRO®. Applicant amended Claim 3 to change the language to the generic form of that trademarked item, specifically, to "hook-and-loop fasteners." Applicant respectfully submits that this rejection is now overcome. Reconsideration and withdrawal of these objections are respectfully requested.

## CLAIM REJECTIONS – 35 U.S.C. SECTION 102

The Examiner rejected Claims 1 – 7 and 9 as being unpatentable over Johnstone under 35 U.S.C. Section 102.

Applicant respectfully traverse this rejection.

The present invention according to Claim 1 is a post-operative chest support comprising a chest encircling band having at least a portion of stretchable material wherein the band has a means for manually varying the tension of the band which is wholly or partially concealed within pockets.

With reference to the figures (for example, with particular reference to Figure 4), Johnstone discloses a surgical chest dressing (10) with a chest encircling band comprising an elastic central panel (12), left dressing half (14) and right dressing half (16). Surgical chest dressing (10) is secured to a patient when left dressing half (14) and right dressing half (16) are attached to one another by a hook-and-loop fastener. The fastener comprises panels (30) and (46) having loop and hook components, respectively. Panel (30) lies adjacent outer edge (29) of left dressing half (14). Panel (46) lies adjacent outer edge (42) of right dressing half (16). Surgical chest dressing (10) also has a top strip of elastic material (62) and a bottom strip of elastic material (68) running across top edges (13, 33 and 43) and bottom edges (15, 35 and 45), respectively. Furthermore, chest dressing (10) has shoulder straps (74) and (76) connected to the chest encircling band with loops (78) and (79).

None of the arrangement of panels (30) and (46), strips of elastic material (62) and (68) or shoulder straps (74) and (76), which the examiner considers as manual tension varying means, is wholly or partially concealed within a pocket feature as required by Claim 1.

Furthermore, Johnstone discloses a surgical chest dressing. This is different to the present invention which relates to a post-operative surgical chest support and not a dressing.

Accordingly, it is respectfully submitted that Claim 1 is novel over Johnstone. Claims 2 to 7 and 9 are also novel over Johnstone due to their dependency on Claim 1.

Reconsideration and withdrawal of the rejection of Claims 1 – 7 and 9 under 35 U.S.C. Section 102 are respectfully requested.

#### **CLAIM REJECTIONS – 35 U.S.C. SECTION 103(a)**

The Examiner rejected Claim 8 as being unpatentable over Johnstone in view of Fletcher under 35 U.S.C. Section 103(a).

Applicant respectfully traverse this rejection and respectfully submits that Claim 8 is non-obvious over Johnstone (US 5,538,502) in light of Fletcher (US 4,630,610).

It is submitted that when formulating the present invention according to claim 8, the person skilled in the art would not have referred to either of Johnstone or Fletcher, much less combined their disclosures. This is because in contrast to the present invention which is a post-operative chest support, Johnstone discloses a surgical chest dressing which acts to minimise stress (ie, maintain a closing pressure - refer column 2, lines 14 to 16) on a vertical surgical incision caused by lateral breast movement (refer column 1, lines 64 to 67). Fletcher discloses a surgical vest which is a support garment for female breasts or prostheses which is used as a surgical dressing for direct contact with a post-operative site after mastectomy or mammoplasty (refer column 1, lines 42 to 47 and column 1, line 63 to column 2, line 1).

The aims of the devices disclosed in Johnstone and Fletcher are thus very different to those of the present invention which is directed at post-operative chest support with tension varying means to provide modified levels of support to a user when it is needed (eg, to enable coughing and breathing exercises).

As mentioned above, Johnstone does not disclose a device which is a post-operative chest support or one that has manual tension varying means which are wholly or partially concealed within pockets. Likewise, neither does

Fletcher. Accordingly, even if the skilled person were to combine the devices of these disclosures he would not arrive at the post-operative chest support according to the invention because features of the invention would be missing.

Accordingly, it is respectfully submitted that Claim 8 is non-obvious over a combination of the disclosures of Johnstone and Fletcher. Reconsideration and withdrawal of the rejection of Claim 8 under 35 U.S.C. Section 103(a) are respectfully requested.

**CONCLUSION**

Applicant respectfully submits that all pending claims as currently presented are in condition for allowance.

Applicant respectfully requests that a Notice of Allowance be issued in this case.



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